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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

FILED

MAY 22 2002

DAVID W. DANIEL, CLERK
U.S. DISTRICT COURT
E. DIST. N. CAROLINA

NO. 4:00-CV-127-H(4)

DOMESTIC FABRICS CORPORATION,)
)
Plaintiff,)
)
v.)
)
SEARS, ROEBUCK, & CO.,)
)
Defendant.)

ORDER

This matter is before the court pursuant to 28 U.S.C. § 636(b), for review of the Memorandum and Recommendation ("M&R") by United States Magistrate Judge Louise W. Flanagan filed on March 4, 2002. The parties have filed various documents in support of their positions. The matter is ripe for ruling.

Upon full and careful review of the M&R, the parties' briefs, and all available court documents, the court finds that the findings and conclusions of the magistrate judge are in all respects proper and in accordance with the law. Accordingly, the court hereby adopts the M&R as its own.

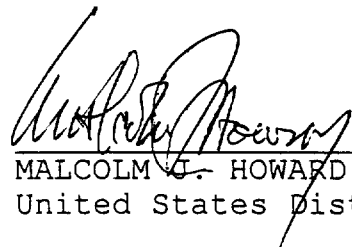
Specifically, the court hereby ADOPTS the magistrate judge's finding that

the '533 patent is for a composite, double knit fabric having two layers, referred to as the "inner layer" and the "outer layer," which are terms of reference to distinguish the two layers of fabric. The term "inner layer" refers to the layer of the fabric with the air pockets. The term "outer layer" refers to the

layer opposite the inner layer. The term "air pockets" as used in the '533 patent means voids.

The court further ORDERS that within twenty (20) days of the filing of this order, the parties should submit any original or supplemental motions for summary judgment on the issue of patent infringement. Summary judgment motions submitted pursuant to this order are hereby REFERRED to Magistrate Judge Flanagan for memorandum and recommendation.

This the 21st day of May, 2002.


MALCOLM G. HOWARD
United States District Judge

At Greenville, NC
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